

Decision No. 54193

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
OREGON NEVADA CALIFORNIA FAST FREIGHT,
INC., a corporation, for authority to
sell and transfer to ROUSH TRANSPORTA-
TION CO., INC., a corporation, and
ROUSH TERMINALS, INC., a corporation,
operative rights and properties;

and

In the Matter of the Application of the
said ROUSH TRANSPORTATION CO., INC., a
corporation, and ROUSH TERMINALS, INC.,
a corporation, for authority to purchase
and acquire the said operative rights
and properties;

and

In the Matter of the Application of the
said ROUSH TRANSPORTATION CO., INC., a
corporation, for authority to issue
certain shares of its capital stock.

Application No. 38444

O P I N I O N

Oregon Nevada California Fast Freight, Inc., (hereinafter sometimes referred to as ONC) requests authority to sell and transfer; and Roush Transportation Co., Inc., and Roush Terminals, Inc., (hereinafter referred to as Transportation company and Terminals company, respectively) request authority to purchase and acquire the operative rights and properties of ONC. Transportation company further requests authority to issue 4,500 shares of its common capital stock at a par value of \$100 per share for a cash consideration of \$777,914.84.

ONC is presently engaged in the transportation of general commodities in interstate commerce between points in California, Oregon, Washington and Nevada. It is also engaged in the transportation of general commodities in intrastate commerce in California,

Oregon and Washington. Appropriate applications have been filed in each of said states as well as with the Interstate Commerce Commission.

A copy of a sales agreement attached to the application as Exhibit M and dated September 4, 1956, indicates that ONC agreed to sell to Carroll J. Roush, Emma P. Roush, Carroll J. Roush, as trustee for David P. Roush, and Carroll J. Roush, as guardian of G. Jon Roush (hereinafter sometimes referred to as purchasers). The purchasers have caused Transportation company and Terminals company to be formed as California corporations for the purpose of taking over the business, operative rights and certain properties of ONC. Terminals company will be assigned the purchasers' rights to acquire all of ONC's terminal properties and revenue equipment subject to the assumption by Terminals company of certain equipment obligations. Transportation company is to be assigned all of ONC's operative rights and certain other properties subject to the assumption of certain liabilities. It is proposed that Terminals company will lease the terminal properties and revenue equipment to Transportation company.

The agreement provides for the transfer of assets for a cash consideration of \$1,677,914.84 and the assumption of liabilities. Upon the approval of all of the regulatory bodies involved it is proposed that Transportation company will issue 4,500 shares of its capital stock to the purchasers heretofore referred to. In turn, Transportation company will purchase the capital stock of Terminals company for cash. Because it is believed that Terminals company will not be a "public utility", application has been made to the Department of Investment, Division of Corporations of the State of California for authority to issue its capital stock. It is asserted that the decision to form two corporations was dictated primarily by tax considerations.

A value of \$1,000 is placed upon the intrastate operative rights, and a value of \$24,000 is placed upon the business and good will pertinent to such operating rights.

Transportation company proposes to adopt the tariffs of ONC and to become a party to the through routes and joint rates described in Exhibit E attached to the application.

After consideration the Commission is of the opinion, and so finds, that the transfer under the terms proposed, and subject to the conditions of the order herein, will not be adverse to the public interest and should be authorized. The Commission further finds that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred. A public hearing does not appear to be necessary.

Applicants are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

(1) That, on or before April 1, 1957, Oregon Nevada California Fast Freight, Inc., may sell and transfer, and Roush Transportation Co., Inc., may purchase and acquire the property referred to in the application as well as the operative rights as granted by the following decisions:

<u>Decision No.</u>	<u>Date</u>	<u>Application No.</u>
32015	2-23-1939	22668
32813	2-13-1940	18914
33317	7- 9-1940	22294
34584	9-16-1941	24452
35243	4-14-1942	24702
36512	7-27-1943	24702
45332	2- 6-1951	29477
47355	6-24-1952	32985

(2) That, on or before April 1, 1957, Oregon Nevada California Fast Freight, Inc., may sell and transfer, and Roush Terminals, Inc., may purchase and acquire the property referred to in the application provided, however, that the authority herein granted is subject to the condition that said property is not relieved from its devotion to the public use, and that its status as public utility operative property shall continue as though no transfer had taken place, anything in any lease or other contract or agreement between the parties hereto to the contrary notwithstanding.

(3) That Roush Transportation Co., Inc., in payment of said operative rights and property may assume the payment of outstanding liabilities and may issue 4,500 shares of its common capital stock for a cash consideration of \$777,914.84.

(4) That on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of

such transfer, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Oregon Nevada California Fast Freight, Inc., has withdrawn or canceled, and Roush Transportation Co., Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

(5) That Roush Transportation Co., Inc., shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

(6) That Roush Transportation Co., Inc., is hereby substituted as a party to the through routes and joint rates presently maintained by Oregon Nevada California Fast Freight, Inc.

The effective date of this order shall be ~~twenty days~~ ^{November 14/1956} after the date hereof.

Dated at Los Angeles, California, this 4th day of DECEMBER, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners